

respective term in said marketing agreement and order.

[33 FR 9147, June 21, 1968. Redesignated at 44 FR 73011, Dec. 17, 1979]

EDITORIAL NOTE: After January 1, 1979, "Budget of Expenses and Rate of Assessment" regulations (e.g. sections .200 through .299) and "Handling" regulations (e.g. sections .323 through .399) which are in effect for a year or less, will not be carried in the Code of Federal Regulations. For FEDERAL REGISTER citations affecting these regulations, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

#### ASSESSMENT RATE

##### § 923.236 Assessment rate.

On or after April 1, 2006, an assessment rate of \$0.50 per ton is established for the Washington Cherry Marketing Committee.

[71 FR 35145, June 19, 2006]

#### GRADE, SIZE, CONTAINER AND PACK REGULATION

##### § 923.322 Washington cherry handling regulation.

(a) *Grade*. No handler shall handle, except as otherwise provided in this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties, commonly referred to as "light sweet cherries" unless such cherries grade at least Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries: *Provided*, That a total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided further*, That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(b) *Size*. No handler shall handle, except as otherwise provided in this section, any lot of cherries unless such

cherries meet the following minimum size requirements:

(1) For the Rainier variety and similar varieties commonly referred to as "lightly colored sweet cherries," at least 90 percent, by count, of the cherries in any lot shall measure not less than  $\frac{61}{64}$ -inch in diameter and not more than 5 percent, by count, may be less than  $\frac{57}{64}$ -inch in diameter.

(2) For all other varieties, at least 90 percent, by count, of the cherries in any lot shall measure not less than  $\frac{54}{64}$  inch in diameter and not more than 5 percent, by count, may be less than  $\frac{52}{64}$  inch in diameter.

(c) *Maturity*. No handler shall handle, except as otherwise provided in this section, any lot of Rainier cherries or other varieties of "lightly colored sweet cherries" unless such cherries meet a minimum of 17 percent soluble solids as determined from a composite sample by refractometer prior to packing, at time of packing, or at time of shipment: *Provided*, That individual lots shall not be combined with other lots to meet soluble solids requirements.

(d) [Reserved]

(e) *Pack*. (1) When containers of cherries are marked with a row count/row size designation the row count/row size marked shall be one of those shown in Column 1 of the following table and at least 90 percent, by count, of the cherries in any lot shall be not smaller than the corresponding diameter shown in Column 2 of such table: *Provided*, That the content of individual containers in the lot are not limited as to the percentage of undersize; but the total of undersize of the entire lot shall be within the tolerance specified.

TABLE

| Column 1, row count/row size | Column 2 diameter (inches) |
|------------------------------|----------------------------|
| 8 .....                      | $\frac{84}{64}$            |
| $8\frac{1}{2}$ .....         | $\frac{79}{64}$            |
| 9 .....                      | $\frac{75}{64}$            |
| $9\frac{1}{2}$ .....         | $\frac{71}{64}$            |
| 10 .....                     | $\frac{67}{64}$            |
| $10\frac{1}{2}$ .....        | $\frac{64}{64}$            |
| 11 .....                     | $\frac{61}{64}$            |
| $11\frac{1}{2}$ .....        | $\frac{57}{64}$            |
| 12 .....                     | $\frac{54}{64}$            |

(2) When containers of cherries are marked with a minimum diameter, at